LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6036 **NOTE PREPARED:** Dec 6, 2005
BILL NUMBER: HB 1166 **BILL AMENDED:**

SUBJECT: Cigarette Manufacturer Fee.

FIRST AUTHOR: Rep. Brown C **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill imposes a $0.025 fee on each cigarette sold by a manufacturer. It provides that the cigarettes of a manufacturer not participating under the Master Settlement Agreement may not be imported into or sold in Indiana until the manufacturer pays the fee.

The bill also entitles a manufacturer participating under the Master Settlement Agreement to a credit against the fee based upon deposits in the Tobacco Master Settlement Agreement Fund that are attributable to the manufacturer.

The bill establishes the Cigarette Manufacturer Fee Account in the state General Fund. It distributes money in the Account to: (1) human immunodeficiency virus (HIV) prevention programs; (2) community health center capital expenditures; and (3) the Master Settlement Agreement Fund. This bill requires a cigarette distributor to report certain information to the Department of State Revenue.

Effective Date: July 1, 2006.

Explanation of State Expenditures: The provisions of implementing this new fee will increase administrative expenses of the Department of State Revenue.

Explanation of State Revenues: This bill will increase revenue to the Tobacco Master Settlement Agreement Fund and decrease Cigarette Tax collections. The bill imposes a fee of $0.025 per cigarette sold in Indiana. The bill requires all cigarette manufacturers to remit this fee at the same time they file their Adjusted Gross Income taxes.

The overall increase in revenue as a result of this bill is estimated at **$100 M for FY 2007 and $89 M for FY 2008**. The cigarette manufacturer's fee will generate new revenue, but it is estimated that it will also decrease cigarette tax collections because of the fee's impact on cigarette sales. The two tables below show the increases from the fee and the impact on cigarette tax collections and distributions.

CIGARETTE MANUFACTURER'S FEE	**FY 2007**	**FY 2008**
State Department of Health (to prevent spread of HIV)	$2 M	$2 M
Capital Expenditures of Community Health Centers	$1 M	$1 M
Indiana Tobacco MSA Fund	$119 M	$106 M
TOTAL REVENUE FROM FEE	**$122 M**	**$109 M**

CIGARETTE TAX COLLECTIONS	**FY 2007**	**FY 2008**
General Fund	($19.00 M)	($17.00 M)
Mental Health Fund	($0.21 M)	($0.19 M)
Cigarette Tax Fund	($1.50 M)	($1.30 M)
Pension Relief Fund	($2.0 M)	($1.70 M)
TOTAL	**($22.71 M)**	**($20.19 M)**

MSA Manufacturers: Manufacturers participating in the Tobacco Master Settlement Agreement (MSA) are required to pay the cigarette manufacturer's fee of $0.025 on each cigarette ($0.50/pack of 20) sold in Indiana. The bill provides that the MSA manufacturers shall receive a credit against the fee equal to the lesser of:

(1) the amount deposited in the Indiana Tobacco MSA Fund; or

(2) the total fees reported and paid to the Department of State Revenue.

The total deposit by all manufacturers in the Indiana Tobacco Master Settlement Agreement Fund is estimated to be $136 M in FY 2007 and $161 in FY 2008. These MSA deposit amounts are less than the estimated amount of cigarette manufacturer's fees that will have to be paid. Therefore, the estimated total credits will be $136 M in FY 2007 and $161 M in FY 2008.

Non-Participating Manufacturers (NPM): This bill provides that for an NPM to sell cigarettes in Indiana they must pay the cigarette manufacturers fee of $0.025 on each cigarette ($0.50/pack) sold in Indiana. This requirement will effectively cause NPMs to stop depositing fees in the qualified escrow account as allowed under IC 24-3-3-12. The bill provides that NPMs shall

(1) become MSA participants;

or either

(2) pay into the escrow account or

(3) pay the cigarette manufacturer's fee (as added by the bill).

Since all manufacturers are required to pay the fee, it is anticipated that there will be no NPMs depositing money into the escrow account.

Background Information: There are currently 24 NPMs selling cigarettes in Indiana. The number of NPMs is estimated to decrease going forward as more NPMs sign on as participants to the MSA. In 2004 the estimated number of packs sold by NPMs was approximately 31 million. The market share for NPMs was estimated at 2% in 2005 and is expected to decrease as more manufacturers become MSA participants.

The Attorney General has been successful in enforcing compliance by NPMs to deposit funds into a qualified escrow account. The money in this account is not a state asset. Statute requires that funds stay in the account for 30 years for use as possible settlement money should the state decide to sue these manufacturers for damages from increased costs to the state health care system resulting from illnesses caused by their products.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue; State Department of Health; Attorney General; Department of Natural Resources.

Local Agencies Affected: Community Health Centers; Cities and Towns who receive Cigarette Tax revenue.

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